

REMARKS

Reexamination and further and favorable reconsideration of the subject application in light of the following additional remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested.

Claims 1-4 and 7-8 have been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Kodama (U.S. Patent No. 6,419,926) in view of Kodama (EP 1010434). This rejection is respectfully traversed.

As discussed in the Amendment and Reply filed on February 19, 2004, the combination of references – Kodama US '926 in view of Kodama EP '434 – fails to teach or suggest the synergistic effects achieved by the present invention.

Moreover, Kodama US '926 can not be used as prior art under 35 U.S.C. § 103(a) against the present application in view of the provisions of 35 U.S.C. § 103(c).

Section 103(c) states:

[s]ubject matter developed by another person, which qualifies as prior art under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under [section 103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. § 103(c).

Here, the present application was filed after November 29, 1999 and it appears that the Examiner has applied Kodama US '926 in the above-mentioned obviousness rejection as qualifying prior art under 35 U.S.C. § 102(e).

Further, applicants provide herein below sufficient evidence to establish common ownership.

STATEMENT CONCERNING COMMON OWNERSHIP

The present application and U.S. Patent No. 6,419,926 were, at the time the invention of the present application was made, owned by, or subject to an obligation of assignment to the same person(s) or organization(s).

Section 706.02(1)(3) of the M.P.E.P. states that this statement is sufficient evidence to disqualify Kodama US '926 from being used in a rejection under 35 U.S.C. § 103(a) against the claims of the present application. Further, Kodama EP '434 does not alone teach or suggest the claimed invention.

In view of the above, withdrawal of the Examiner's rejection under 35 U.S.C. § 103(a) is respectfully requested.

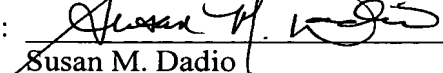
From the foregoing, as well as the previously filed Amendment and Reply dated February 19, 2004, further and favorable action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

In the event that there are any questions relating to this Supplemental Reply, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited

Respectfully submitted,

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